

§ 1.21

17 CFR Ch. I (4-1-06 Edition)

settle the trades, contracts or commodity options of the clearing member's commodity or option customers and all money accruing to such commodity or option customers as the result of trades, contracts or commodity options so carried shall be separately accounted for and segregated as belonging to such commodity or option customers, and a clearing organization shall not hold, use or dispose of such customer funds except as belonging to such commodity or option customers. Such customer funds when deposited in a bank or trust company shall be deposited under an account name which clearly shows that they are the customer funds of the commodity or option customers of clearing members, segregated as required by the Act and these regulations. The clearing organization shall obtain and retain in its files for the period provided by § 1.31 an acknowledgment from such bank or trust company that it was informed that the customer funds deposited therein are those of commodity or option customers of its clearing members and are being held in accordance with the provisions of the Act and these regulations.

(c) Each futures commission merchant shall treat and deal with the customer funds of a commodity customer or of an option customer as belonging to such commodity or option customer. All customer funds shall be separately accounted for, and shall not be commingled with the money, securities or property of a futures commission merchant or of any other person, or be used to secure or guarantee the trades, contracts or commodity options, or to secure or extend the credit, of any person other than the one for whom the same are held: *Provided, however,* That customer funds treated as belonging to the commodity or option customers of a futures commission merchant may for convenience be commingled and deposited in the same account or accounts with any bank or trust company, with another person registered as a futures commission merchant, or with a clearing organization, and that such share thereof as in the normal course of business is necessary to purchase, margin, guarantee, secure, transfer, adjust, or settle the trades, contracts or com-

modity options of such commodity or option customers or resulting market positions, with the clearing organization or with any other person registered as a futures commission merchant, may be withdrawn and applied to such purposes, including the payment of premiums to option grantors, commissions, brokerage, interest, taxes, storage and other fees and charges, lawfully accruing in connection with such trades, contracts or commodity options: *Provided, further,* That customer funds may be invested in instruments described in § 1.25.

(Approved by the Office of Management and Budget under control numbers 3038-0007, and 3038-0024)

[46 FR 54518, Nov. 3, 1981, as amended at 46 FR 63035, Dec. 30, 1981; 50 FR 36051, Sept. 5, 1985; 65 FR 78009, Dec. 13, 2000]

§ 1.21 Care of money and equities accruing to customers.

All money received directly or indirectly by, and all money and equities accruing to, a futures commission merchant from any clearing organization or from any clearing member or from any member of a contract market incident to or resulting from any trade, contract or commodity option made by or through such futures commission merchant on behalf of any commodity or option customer shall be considered as accruing to such commodity or option customer within the meaning of the Act and these regulations. Such money and equities shall be treated and dealt with as belonging to such commodity or option customer in accordance with the provisions of the Act and these regulations. Money and equities accruing in connection with commodity or option customers' open trades, contracts, or commodity options need not be separately credited to individual accounts but may be treated and dealt with as belonging undivided to all commodity or option customers having open trades, contracts, or commodity option positions which if closed would result in a credit to such commodity or option customers.

[46 FR 54519, Nov. 3, 1981]